

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

THOMAS S. WILLIS, JR.,

Plaintiff,

vs.

Civil Action 2:05-cv-730
Judge Sargus
Magistrate Judge King

MORTGAGE ASSISTANCE SOLUTIONS,

Defendant.

ORDER
AND
REPORT AND RECOMMENDATION

This matter is before the Court on plaintiff's motion for leave to proceed *in forma pauperis*. Upon consideration, the Court finds the motion is meritorious, and therefore it is **GRANTED**.

WHEREUPON, IT IS ORDERED THAT the plaintiff be allowed to prosecute this action without prepayment of fees or costs and that judicial officers who render services in this action shall do so as if the costs had been prepaid.

However, after performing the initial screen of the complaint required by 28 U.S.C. §1915(e), the Court concludes that it lacks jurisdiction over the claim asserted in the complaint.

The complaint seeks damages in the amount of \$2,923.00 in connection with defendant's servicing of plaintiff's mortgage loan. The complaint does not assert a claim under federal law, but appears to invoke the Court's diversity jurisdiction. Although the parties appear to be of diverse citizenship, this Court is vested with diversity jurisdiction only where, in addition, "the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. ..." 28 U.S.C. §1332(a).

Because the jurisdictional amount is not met, it is **RECOMMENDED**

that this action be dismissed for lack of subject matter jurisdiction. See 28 U.S.C. §1915(e).

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within ten (10) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within ten (10) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

July 27, 2005

s/Norah McCann King
Norah M°Cann King
United States Magistrate Judge